

# Chapter 2

## Contributions

This chapter begins with a discussion of common types of contributions and includes information on the state contribution limits.

### What is a Contribution?

A “contribution” is a monetary or nonmonetary payment made to a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers);
- Loans (including loan guarantees, co-signing, lines of credit, and forgiveness of a loan);
- Enforceable promises;
- Tickets to political fundraisers (full value of the ticket); and
- Nonmonetary items (donated goods or services).

Common types of nonmonetary contributions include:

**Staff:** If a business donates the use of an employee to work on a campaign, the amount the individual is paid for working on the campaign is a nonmonetary contribution if the employee spends more than 10 percent of his or her compensated time in a calendar month working on the campaign.

**Discounts:** If an entity provides a discount on goods or services to a committee and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution.

**Enforceable Promises:** A legally enforceable promise to pay for goods or services is a contribution. A pledge card is

not considered an enforceable promise to make a contribution. “Enforceable promise” also does not include a contributor’s agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

**Phone Banks:** Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business.

**Websites:** If a website is designed and maintained at the behest of a candidate or measure committee, the portion of the website containing express advocacy is a nonmonetary contribution. (See the member communication exception on page 2-3.)

**Office Space:** The value of donated office space may be computed based on comparable rental rates for office space in the area.

**Polls:** A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. A formula utilized by the Federal Election Commission may be used for valuing polling or survey data, as long as the formula is used in a reasonable manner to provide a fair estimate. The formula calculates the value based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from

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the date the entity originally received the data to the date the data were provided to the candidate or committee.

Age of Data	Value
0 -15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate or committee, the nonmonetary contribution is the prorated portion of the total value of the survey.

### Reporting Contributions Made

In general, a monetary contribution is made on the date that the contribution is mailed, delivered, or otherwise transmitted to the candidate or committee. Alternatively, the date of the check may be used provided it is no later than the date the contribution is mailed, delivered, or otherwise transmitted. For example, a check dated July 10 and delivered June 10 is made on June 10. Whereas, a check dated May 5 but delivered June 10 may be reported as made on either May 5 or June 10.

A late monetary contribution (a contribution made during the last 16 days before an election) must be reported as being made on the date mailed, delivered, or otherwise transmitted to the candidate or committee. Unlike the contribution described above, the date of the check may not be used in lieu of the mail, delivery, or transmittal date. A late contribution triggers a special report that must be filed within 24 hours of making the contribution. (See Chapter 4.) A nonmonetary contribution is made on the earlier of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the committee or an agent of the committee obtained possession or control of the goods or services; or

- The date the committee received the benefit of the expenditure.

When a nonmonetary contribution is made, the fair market value must be reported.

The value of all nonmonetary contributions of \$100 or more must be reported in writing to the recipient upon the recipient's written request.

**Joint Checking Accounts:** Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as made from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

**Example** *Linda and Jerry Nelson are both listed names on a joint checking account. From this account, Linda signed a \$15,000 check payable to Citizens Against Street Crime, Yes on Measure D. Linda is the contributor of the full \$15,000.*

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the individual who signed the check.

A contribution made by a child under the age of 18 is presumed to be a contribution from his or her parent or guardian, unless the

facts show otherwise (i.e., that the child actually chose to make the contribution).

**Affiliated Committees:** A major donor committee that files campaign statements disclosing contributions made by affiliates must notify the recipients of its contributions of the name used on the major donor campaign statement under the “name of filer.”

**Example** *Global Software made a \$13,000 contribution to a ballot measure committee. Global Software’s contributions are reported on the major donor statement filed under the name of Pace Computers, Global Software’s parent. Global Software must notify the ballot measure committee that the contribution is disclosed on the campaign statement filed by Pace Computers. The ballot measure committee will identify both Global Software and Pace Computers on its campaign statement.*

### Contributions: Exceptions

There are many exceptions to the definition of “contribution.” Four common exceptions include:

**Volunteer Personal Services:** If an individual donates his or her personal or professional services to a campaign, no contribution has been made or received. However, if an employer donates employee services to a campaign, and any employee spends more than 10 percent of his or her compensated time in a calendar month providing the services, the employer has made a nonmonetary contribution. “Volunteer personal services” does not include any tangible items. Donated goods are contributions.

**Home/Office Fundraisers:** If someone holds a fundraiser or other campaign event in his or her home or office, the costs incurred by the occupant of the home or office need

not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value for the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less.

**Example** *Shannon sponsors an event for a candidate after work in her business’ office. She spends \$450. A friend supplies decorations worth \$75. Since the total cost of the event exceeds \$500, the candidate must report receiving contributions of \$450 from Shannon and \$75 from the friend.*

**Quick TIP** *The total cost of a home or office fundraiser must be \$500 or less. This is true no matter how many committees or candidates benefit from the event.*

**Member Communications:** Payments made by an entity (including a business entity) for a communication that supports or opposes a candidate or ballot measure are not contributions or expenditures as long as the communication is sent only to the organization’s members, employees, shareholders, or their families. The payments may not be for general public advertising, such as billboards, newspaper, radio or television ads.

**Example** *A corporation sends a mailing supporting a ballot measure to the corporation’s shareholders. The mailing is not a contribution to the ballot measure committee whose position is supported or an independent expenditure. Later, at the behest of the ballot measure committee, the corporation sends the mailing to all registered voters in the district where the measure will appear on the ballot. The mailing to the voters is a nonmonetary contribution.*



**Consult Regulation 18215 for a complete list of exceptions to the definition of a contribution.**

**Payments for Governmental, Legislative, or Charitable Purposes:** Payments made in connection with a governmental, legislative, or charitable event, such as a job or health fair, a charity fundraiser, or a conference on educational issues, that are coordinated or requested by an elected official from a source other than the official's agency, such as a business, are generally not considered gifts or contributions to the elected official who is co-sponsoring the event. However, the official may be required to report such payments if they total \$5,000 or more.

**Example** *At Councilmember Stark's request, Diamond Dairy made a \$10,000 donation to the Boys' and Girls' Club. Councilmember Stark will file a report with the city clerk disclosing the donation and donor's name and address. Diamond Dairy is not required to report the payment.*

### Contribution Restrictions

**Contributions of \$100 or More:** Monetary contributions of \$100 or more must be made by written instrument (such as a check) containing the name of the donor and drawn from the account of the donor or intermediary. Contributions may also be made by credit card or electronic transmission (e.g., wire transfer). Contributions of \$100 or more made by money order, cashier's check, or traveler's check are prohibited. A cash contribution of \$100 or more is prohibited and an anonymous contribution of \$100 or more is prohibited.

In addition, a candidate or committee must return a contribution of \$100 or more from an individual if the individual's name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution.

All contributions to a candidate or committee must be made in the name by which the contributor is identified for legal purposes.

**Intermediary:** An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation and employer information must be disclosed for both the true source of the contribution and the intermediary.

**Example** *Lori Martin and John Porter each made a \$1,000 contribution from their personal funds to support the Committee for Measure F, with the understanding that they would be reimbursed by their employer. Lori and John must tell the committee that they are acting as intermediaries on behalf of their employer. The committee must itemize the \$2,000 contribution on its campaign statement showing the employer as the contributor and also indicating that Lori and John were intermediaries for \$1,000 each.*

**Reimbursing employees or others to get around contribution limits is called campaign money laundering and is illegal.**

**This failure to disclose the true source of a contribution is considered one of the most serious violations of the Political Reform Act.**

**Example** *Build Right Homes is a housing company located in Sun City, California. Sun City has a \$1,000 per election contribution limit for local officials. The City Council is considering a contentious slow-growth plan for Sun City. Concerned about the plan, the president of Build Right Homes makes a maximum contribution to a council candidate who opposes it. He asks*

*the employees of Build Right Homes to do the same, and plans to reimburse them. Reimbursing employees or others to get around contribution limits is called campaign money laundering and is illegal.*

### **Contributions in State Office Buildings:**

Contributions may not be delivered, personally or through an agent, in the State Capitol or other state office building if the State of California pays the majority of the rent for that building. “Personally delivered” includes the delivery of a copy or facsimile of a contribution, and the original or a copy of a contribution transmittal letter. This prohibition does not apply to contributions received or delivered in a legislative district office, or those sent by mail.

### **Contributions from Foreign Governments or Principals:**

A foreign government or foreign principal may not make contributions or expenditures in connection with the qualification or support of, or opposition to, any state or local ballot measure. The term “foreign principal” as defined in 22 U.S.C.A. Section 611(b) includes:

- A foreign political party;
- A person outside the United States, unless the person is a U.S. citizen or a U.S. corporation whose place of business is in the United States;
- A foreign partnership, association, corporation, or organization; or
- A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is not a U.S. citizen or lawful permanent resident.

**Contributions from Foreign Nationals, National Banks, or Corporations:** Foreign nationals, national banks, and federally-chartered corporations may not make contributions in connection with any local,

state, or federal election. (The Federal Election Campaign Act (2 U.S.C. Section 441b).) Contact the Federal Election Commission for more information at (800) 424-9530.

### **Disqualification and Campaign**

**Contributions:** Government Code Section 84308 disqualifies certain appointed board members and commissioners from participating in governmental decisions affecting campaign contributors (including the parent, subsidiary, or affiliate of a campaign contributor) who have given \$250 or more within 12 months before the decision. Section 84308 applies to proceedings on licenses, permits, and other entitlements for use pending before certain state and local agencies, boards, and commissions. In addition, the official is prohibited from accepting or soliciting contributions of \$250 or more from the parties and other participants during the proceeding. Contact the FPPC for more information.

### **State Contribution Limits**

#### **Candidate Election Committees:**

Candidates for state office have limits on how much they may accept from a single source per election. For purposes of contribution limits, the primary, general, special, and special runoff elections are considered separate elections. Contribution limits may increase or decrease every two years based on changes in the Consumer Price Index.

Candidates may raise contributions for a general or special general election prior to a primary or special primary election. If the candidate loses or withdraws from the general or special general election, contributions received for the general or special general election must be returned to the contributors on a pro rata basis, less the cost of raising and administering the funds.



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### Per-Election Limits on Contributions to State Candidates

(For elections held on or after January 1, 2007)

Contributor	Legislature	Statewide Except Governor	Governor
Person	\$3,600	\$6,000	\$24,100

**Officeholder Accounts:** After the date of an election, an elected state officer may accept contributions into an officeholder committee to pay costs associated with holding office. (The last name of the officeholder and the term “officeholder” must be in the committee name.) These contributions are subject to calendar year limits both by donor and in the aggregate. In addition, officeholder contributions must be cumulated (in full) with any other contributions that a contributor makes to another election committee controlled by the officeholder and formed for a future state office.

**Example** *Assemblymember Jones opens an officeholder committee in November. In June of the following year, Jones opens a committee to run for Senate. A \$3,000 contribution to the officeholder committee counts toward the contribution limit of \$3,600 from the same contributor to the Senate committee. The donor may only contribute \$600 to the Senate committee.*

**Quick TIP** Contributions from affiliated committees are aggregated for purposes of the limits on contributions to state candidates. (See Chapter 1.)

### Calendar Year Limits on Contributions to State Officeholder Accounts

(2007 and 2008)

Contributor	Legislature	Statewide Except Governor	Governor
Person	\$3,000	\$5,000	\$20,000
Legislature		Statewide Except Governor	Governor
Aggregate from all Sources	\$50,000	\$100,000	\$200,000

### Other State Committees

#### Calendar Year Limits on Contributions to Other State Committees

(2007 and 2008)

Contributor	Committee (Not Political Party) for State Candidates	Political Party for State Candidates	Small Contributor Committee	Committee/Political Party Not for State Candidates
Person	\$6,000	\$30,200	\$200	No limit

Certain other committees are also subject to state contribution limits. However, these committees may receive contributions in excess of the limits as long as the contributions are placed in a separate account and are not used for state candidate contributions.

**Primarily Formed Committees:** A committee that is primarily formed to support or oppose a state candidate (but is not controlled by the candidate) may not receive more than \$6,000 from a single source in a calendar year for the purpose of making contributions to the candidate it is primarily formed to support.

Many primarily formed committees do not make contributions to the candidate the committee is formed to support, but use the

contributions they receive for the purpose of making independent expenditures. If a primarily formed committee will only make independent expenditures, the committee is not subject to the contribution limit.

**General Purpose Recipient Committees (Including PACs and Political Parties):** A committee that is formed to support or oppose various candidates and measures may not receive more than \$6,000 from a single source in a calendar year for the purpose of making contributions to state candidates.

A political party, including a central committee, may not receive more than \$30,200 from a single source in a calendar year for the purpose of making contributions to state candidates.

### Extensions of Credit

When there is an agreement with the provider of goods or services that a state candidate or committee will pay for goods or services on credit, the goods or services may become a contribution to the candidate or committee and be subject to contribution limits if it remains unpaid after 45 days.

### Contributions that Exceed the Limits

A violation of the Act does not occur if a contribution to a state candidate that exceeds the limit is not deposited into the candidate's bank account and is returned within 14 days of receipt. For nonmonetary contributions, either the item itself, its monetary value, or the monetary amount by which the value of the nonmonetary contribution exceeds the limits must be returned within 14 days of receipt.

### Exceptions

**Legal Defense Funds:** State and local candidates and officeholders may establish a legal defense fund to defray attorney's fees and other related legal costs incurred for the candidate's or officeholder's legal defense if the candidate or officeholder is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties. Contributions made to a legal defense committee are reportable but are not subject to contribution limits. Legal defense committees are required to have the candidate's or officeholder's last name and the words "legal defense" in the name of the committee.

**Recall Elections:** A state officeholder who is the subject of a recall may set up a separate committee to oppose the qualification of the recall measure and, if the recall petition qualifies, the recall election. Contributions to this committee are reportable but are not subject to limits.

**Ballot Measure Committees:** A primarily formed or general purpose ballot measure committee is not subject to state contribution limits, including those committees controlled by a state candidate or officeholder. But funds from a ballot measure committee may not be used for the state candidate's election.

**Contribution Limits and Repaid Loans:** Loans are contributions subject to contribution limits. However, if a loan has been repaid, the lender may make additional contributions to the same candidate or committee up to the contribution limit.

### Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

#### Government Code Sections

82015	<i>Contribution.</i>
82025	<i>Expenditure.</i>
82031	<i>Independent Expenditure.</i>
82044	<i>Payment.</i>
82047	<i>Person.</i>
84211	<i>Contents of Campaign Statement.</i>
84300	<i>Cash and In-Kind Contributions; Cash Expenditures.</i>
84302	<i>Contributions by Intermediary or Agent.</i>
84304	<i>Anonymous Contributions.</i>
84308	<i>Contributions to Officers; Disqualification.</i>
84309	<i>Transmittal of Campaign Contributions in State Office Buildings.</i>
85301	<i>Limits on Contributions from Persons.</i>
85303	<i>Limits on Contributions to Committees and Political Parties.</i>
85304	<i>Legal Defense Fund.</i>
85306	<i>Transfers Between a Candidate's Own Committees; Use of Funds Raised Prior to Effective Date.</i>
85307	<i>Loans.</i>
85308	<i>Family Contributions.</i>
85312	<i>Communications to Members of an Organization.</i>
85320	<i>Foreign Entities.</i>
85700	<i>Donor Information Requirements; Return of Contributions.</i>

#### Title 2 Regulations

18215	<i>Contribution.</i>
18215.1	<i>Contributions; When Aggregated.</i>
18216	<i>Enforceable Promise to Make a Payment.</i>
18225	<i>Expenditure.</i>
18225.7	<i>Made at the Behest of.</i>

18421.1	<i>Disclosure of the Making and Receipt of Contributions.</i>
18423	<i>Payments for Personal Services as Contributions and Expenditures.</i>
18428	<i>Reporting of Contributions and Independent Expenditures Required to be Aggregated.</i>
18432.5	<i>Intermediary.</i>
18439	<i>Definition of "Personally Deliver."</i>
18530.4	<i>Legal Defense Funds.</i>
18530.7	<i>Extensions of Credit.</i>
18531	<i>Return of Excess Contributions.</i>
18531.5	<i>Recall Elections.</i>
18531.62	<i>Elected State Officeholder Bank Accounts.</i>
18531.7	<i>Payments for Communications—Section 85312.</i>
18533	<i>Contributions from Joint Checking Accounts.</i>
18537	<i>Contributions Limits and Application to Repaid Loans.</i>